



AF/PAH
PAH-108

IN THE UNITED STATES PATENT & TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant: Joakim Harr : Examiner: Mahbubar Rashid
Title: Arrangement Related :
To A Swing Damper : Group Art Unit: 3683
Serial No. 10/530,158 :
Filed: April 1, 2005 :

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Mail Stop: Appeal Brief, Patents

TRANSMITTAL OF REPLY BRIEF

Enclosed for filing please find a Reply Brief (in triplicate), responsive to the Examiner's Answer dated January 9, 2008.

Respectfully submitted,

Mark P. Stone
Reg. No. 27,954
Attorney for Applicant
25 Third Street, 4th Floor
Stamford, CT 06905
(203) 329-3355

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.

MARK P. STONE
Reg. No. 27,954

3/5/08
(Date of Deposit)



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REPLY BRIEF

This Reply Brief is being filed in response to the Examiner's Answer mailed on January 9, 2008 in connection with the above identified Appeal.

Pages 1 - 6 of the Examiner's Answer essentially repeats the rejections made in the Official Action dated May 25, 2007,

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Mark P. Stone *3/5/08*
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Reg. No. 27,954

placing this application under final rejection. The Examiner's Answer, starting at page 6 (Section 10), responds to the arguments advanced by Applicant in the Appeal Brief filed on October 22, 2007. These arguments include, inter alia, that a critical feature of the invention disclosed in the Harr publication (WO 00/53522) applied to reject appealed independent Claims 1 and 8, is lacking from the arrangement defined by appealed independent Claim 1 and the method defined by appealed independent Claim 8. (See Pages 6 - 8 of the Appeal Brief filed on October 22, 2008). More specifically, the Harr publication discloses and advocates a brake disc including slot 64 to enable a fastener element 71 to move along the slot 64 (See Figure 3 of the Harr publication). The slot 64 defined in the brake disc of the Harr publication is critical to the accomplishment of the objective of the Harr publication, which is to provide a swing dampening arrangement and a method for swing dampening. (See, page 7 of the Appeal Brief filed on October 22, 2007, quoting from pages 4 and 5 of the Harr publication).

Although the method and arrangement disclosed and claimed by Applicant in appealed independent Claims 1 and 8 are directed to similar objectives to that of the Harr publication, these objectives are accomplished in significantly different ways. As emphasized by Applicant throughout the Appeal Brief, the swing damping arrangement defined by appealed independent Claim 1 and

the method relating to a swing damper as defined by appealed independent Claim 8, accomplish the intended objectives without providing a brake disc defining a slot for accommodating a brake unit fastener device, a feature which is critical to the method and arrangement disclosed in the Harr publication (See page 7 of the Appeal Brief filed on October 22, 2007).

This argument advanced by Applicant in its Appeal Brief is only briefly addressed in the Examiner's Answer at page 10, lines 9 - 12. This portion of the Examiner's Answer states:

"...Appellant argues that Harr (WO 00/53522) includes a brake disc (fig. 4, (60)) having a slot (4). The examiner notes that appealed independent Claims 1 and 8, respectively, do not employ any physical structure of the discs therefore the discs of Harr (WO 00/53522) clearly reads on the discs as claimed..."

Applicant respectfully disagrees with the Examiner's conclusion. It is well established that a rejection of a claim as being anticipated by a prior art reference requires the Patent & Trademark Office to establish a strict identity of invention between the applied reference of each rejected claim. This requires that the applied prior art reference disclose all features of the rejected claim, as arranged in the claim. See, for example, Connell v. Sears, Roebuck & Co., 220 USPQ 193 (Fed. Cir. 1983).

Applicant respectfully submits that the invention disclosed in the applied Harr publication, when considered in its entirety, requires structure and arrangement of structure (a disc defining a slot for accommodating a fastener element slidable along the slot) which is not required, disclosed or claimed by Applicant in the present application. Applicant respectfully submits that when the disclosure of the Harr publication is considered in its entirety, and compared to the invention disclosed by Applicant and defined by appealed independent Claims 1 and 8, there is no strict identity of invention between the arrangement and method defined by appealed independent Claims 1 and 8 and that disclosed by the Harr publication. Moreover, based upon Applicant's specification and drawings, appealed independent Claims 1 and 8 can not be reasonably interpreted as including a disc defining a slot for slideably receiving a fastening element in the slot.

Applicant notes that the differences in structure between the arrangement and methods defined by appealed independent Claims 1 and 8, and that disclosed by the Harr publication, result in different functional advantages of the claimed arrangement and structure. Referring to Fig. 2 of Applicant's drawing, it is apparent that the arrangement and method defined by appealed independent Claim 1 and 8 permit shifting of the brake discs in a brake disc unit including three removable discs without dismounting the brake disc unit which remains suspended

from the tip of the crane arm 2. (See Fig. 1 of Applicant's drawing). On the contrary, referring to Fig. 2 of the Harr publication, as a result of the slot 64 defined in the brake disc 60, and the fastener element 71 slidably received within the slot 64, it is not possible to remove the discs from the brake unit without first dismounting the brake unit from the crane arm 2 from which it is suspended (See Fig. 1 of the Harr publication).

* * *

For the reasons discussed herein, in the Appeal Brief filed on October 22, 2007, and throughout the prosecution of the present patent application, Applicant respectfully submits that independent Claims 1 and 8 are not anticipated by the Harr publication because there is no strict identity of invention between these claims and the disclosure of the Harr publication when the disclosure of the Harr publication is considered in its entirety.

Applicant respectfully submits that appealed independent Claims 1 and 8 are in condition for allowance over the Harr publication applied in the Official Action dated May 25, 2007 placing this application under final rejection, and that the remaining depending claims are allowable at least for the same reasons as their respective parent independent claims.

Applicant respectfully requests that the final rejection of
the appealed claims be reversed.

Respectfully submitted,



Mark P. Stone
Reg. No. 27,954
Attorney for Applicant
25 Third Street, 4th Floor
Stamford, CT 06905
Tel. (203) 329-3355